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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KUMAR, PREETI

ART UNIT

PAPER NUMBER

1751

MAIL DATE

DELIVERY MODE

10/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-27, drawn to a cosmetic composition.

Group II, claim(s) 28-30, drawn to method of applying a liquid hand soap to hands.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: At least Weber et al. (US 6,812,200) teach a detergent or cleaning product comprising a non-aqueous carrier, a plurality of non-aqueous carrier stable capsules, an encapsulated material, and a sensorial material. See Lee et al. US 7,250,174 where Lee et al. teach bioactive particulates incorporated into an inert carrier in discrete units such as capsules, cachets, tablets or lozenges, each containing a predetermined amount of the particles; as a powder or granules; or a suspension or solution in an aqueous liquid or non-aqueous liquid, e.g., a syrup, an elixir, an emulsion or a draught. Suitable carriers may be starches or sugars and include lubricants, flavorings, binders, and other materials of the same nature. See col.75, ln.60-70. Accordingly, since the claimed composition is

Art Unit: 1751

not novel, there is lack unity of invention between the composition and the method of washing hands.

Also, if Group I is elected, Applicant is further required, in reply to this action, to elect a single species of non-aqueous carrier and a plurality of non-aqueous carrier stable capsules to which the claims shall be restricted if no generic claim is finally held to be allowable. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1 since the non aqueous carrier can encompass PVA, or a mixture of glycerol, sodium lauryl sulfate and aloe vera gel, or polyethylene glycol which carriers lack unity and pose an undue burden within one application. Also the claims recite species of plurality of non-aqueous carrier stable capsules which lack unity since they encompass PVP or cyclodextrin or PVME which plurality of non-aqueous carrier stable capsule species lack unity and pose an undue burden within one application.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

Art Unit: 1751

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

3. Due to the complexity of the above lack of unity restriction requirement, a telephone call was not made to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Conclusion

Art Unit: 1751

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on 9am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner Preeti Kumar PK
Art Unit 1751

PK


DOUGLAS MCGINTY
SUPERVISORY PATENT EXAMINER

1751